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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,777	07/10/2003	Mark J. Bauckman	Z0030/282820	1998
23370	7590	09/09/2004		
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			EXAMINER	PRINCE, FRED G
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/616,777	BAUCKMAN ET AL.
	Examiner	Art Unit
	Fred Prince	1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 2-5 is/are allowed.
- 6) Claim(s) 1,6,14-17,19,20,22-24 and 26 is/are rejected.
- 7) Claim(s) 7-13, 18, 21, and 25 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 22-24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wessels.

Wessels teaches a pool cleaner having a body (10) automatically displaceable within the swimming pool (col. 1, lines 6-8), a float (14) at least partly contained within the body, wherein the float is attached to the body and protrudes from the body (Fig. 3).

3. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Lin.

Lin teaches a body (11) within a swimming pool and means for indicating temperature information (20).

4. Claims 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Henkin et al.

Henkin et al. teach a system including a swimming pool (2), an automatic pool cleaner (100), a pump (Fig. 29) in communication with the pool cleaner, and a means for indicating the pressure of the water (1206).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Iest, Burzacchi, and Lin.

Iest discloses a swimming pool containing means for indicating temperature information of water in the pool.

Burzacchi discloses a swimming pool containing means for indicating temperature information of water in the pool.

Lin discloses a swimming pool containing means for indicating temperature information of water in the pool.

None of the references explicitly discloses a pump and piping and a hose on the temperature indicator.

It is submitted that it is conventional in the art to supply a pump and associated piping in order to, for instance, route water from the pool to a water purifier and back into the pool and to supply a temperature indicator with a hose in order to, for example, route water to/from the indicator. Accordingly, it would have been obvious for the skilled artisan to have modified the system of any one of the above references such that it includes a pump and associated piping in order to, for instance, route water from the pool to a water purifier and back into the pool and to provide the temperature indicator with a hose in order to, for example, route water to/from the indicator , as known in the art.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wessels.

Wessels is described above. Wessels does not disclose that the body has a window through which the float is visible.

It is submitted that designing the body such that the float is visible through a window is a matter of design choice, absent a proper showing of a new and unexpected result. Further, it is not seen how such a window would materially effect the operation of the cleaner. Accordingly, the limitation does not appear to involve a novel or inventive step.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henkin et al. in view of Lin.

Henkin et al. is described above. Henkin et al. do not disclose temperature indicating means on the pool cleaner.

In any case, Lin shows the well-known concept of providing temperature indicating means on a pool cleaner in order to ascertain the temperature of the water for subsequent water treatment (abstract).

It would have been readily obvious for the skilled artisan to have modified the invention of Henkin et al. by placing temperature indicating means on the body of the cleaner in order to ascertain the temperature of the water for subsequent water treatment, as suggested by Lin.

Allowable Subject Matter

9. Claims 2-5 are allowed.
10. Claims 7-13, 18, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In the examiner's opinion, the prior art fails to teach or render obvious combining a pool cleaner with a float having an oval or elliptical cross-section or that is egg-shaped. A pool cleaner having the recited positioning and operational elements would have an enhanced or optimized righting moment as disclosed by applicant in the instant specification.

In the examiner's opinion, the prior art fails to teach or fairly suggest a pool cleaner in combination with a temperature indicator which changes color in response to temperatures. The invention provides the benefit of informing the operator of water temperature from a distance.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
8/31/04